

Merchant & Gould

An Intellectual Property Law Firm

Merchant & Gould P.C.
3200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2215

A Professional Corporation

Fax Transmission| February 23, 2007

TO: ATTN: OFFICE OF PCT LEGAL ADMINISTRATION

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

FROM: Julie R. Daulton

OUR REF: 15261.0003USWO


TELEPHONE: 612-336-4724

Total pages, including cover letter: 12PTO FAX NUMBER 1-571-273-0459


If you do NOT receive all of the pages, please telephone us at 612.332.5300, or fax us at 612.332.9081.

Title of Document Transmitted: PETITION FOR EXTENSION OF TIME UNDER 37
CFR 1.136(a), RENEWED PETITION UNDER 37
CFR 1.47(a), GRANT OF PERSONAL
REPRESENTATIVE, COMBINED DELARATION
AND POWER OF ATTORNEY, DECISION ON
PETITIONApplicant: BOSSARD et al.
Serial No.: 10/560191
Filed: December 5, 2005
Group Art Unit: 3731
Our Ref. No. 15261.0003USWO
Confirmation No. 2933

Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate.

By: 
Name: Julie R. Daulton
Reg. No.: 36,414

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below.

Natalie Berland
SignatureFebruary 23, 2007
Date

S/N 10/560191

PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	BOSSARD et al.	Examiner:	Unknown
Serial No.:	10/560191	Group Art Unit:	3731
Filed:	December 5, 2005	Docket No.:	15261.0003USWO
Title:	DEVICE AND METHOD FOR REMOVING A COMPOSITION FROM THE SKIN		

CERTIFICATE UNDER 37 CFR 1.6(d):

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on

By: 

Name: Natalie Berland

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Mailstop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

In accordance with the provisions of 37 C.F.R. §1.136(a), it is respectfully requested that a 1-month extension of time be granted in which to respond to the Decision on Petition mailed November 30, 2006, said period of response being extended from January 30, 2007 to February 28, 2007.

Please charge our deposit account 13-2725 in the amount of \$120 is enclosed to cover the required extension fee for a large entity.

Respectfully submitted,

23552

PATENT TRADEMARK OFFICE

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Dated: 23 February 2007By: 

Julie R. Daulton
Reg. No. 36,414

JRD/ncb

S/N 10/560191

PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	BOSSARD et al.	Examiner:	Unknown
Serial No.:	10/560191	Group Art Unit:	3731
Filed:	December 5, 2005	Docket No.:	15261.0003USWO
Title:	DEVICE AND METHOD FOR REMOVING A COMPOSITION FROM THE SKIN		

CERTIFICATE UNDER 37 CFR 1.6(d):

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on

By:

Name: Nadine Befland

RENEWED PETITION UNDER 37 CFR 1.47(a)

Mailstop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

The applicants hereby renew their petition under 37 CFR 1.47(a) originally filed on April 3, 2006. The original petition requested the Commissioner to complete the filing of the above-captioned application despite the unavailability or inability of inventor Andrew Robert McLeish, deceased, or an Administrator or other legal representative of the inventor estate to execute the formal documents. This was due to the fact that Mr. McLeish died on December 26, 2004 in the Tsunami in Thailand and the fact that he died intestate. The applicants subsequently received a Decision on the Petition mailed November 30, 2007, which stated that not enough information was given to grant the petition.

Subsequently, the applicants have been able to obtain a copy of the appointment of the Personal representative of Mr. McLeish's estate. Enclosed please find a copy of the decision of the High Court of Justice in the District Probate, Registry at Leeds to appoint Ms. Barbara Jenman to be the Personal representative of Mr. McLeish's estate, as well as a copy of the Combined Declaration and Power of Attorney signed by her.

A Combined Declaration and Power of Attorney signed by the other named inventors has been filed with the USPTO on April 3, 2006. Therefore, the documents submitted with this petition should effectively complete the requirements for this application.

Applicants request favorable consideration of their petition. If a telephone conference would be helpful in resolving any issues concerning this communication, please contact the undersigned, Julie R. Daulton (Reg. No. 36,414), at (612) 336-4724.



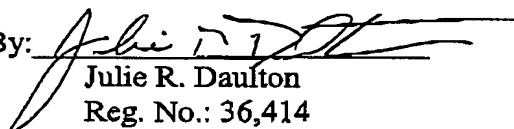
Dated: February 23, 2007

JRD/ncb

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903
(612)332.5300

By:


Julie R. Daulton
Reg. No.: 36,414

COPIES OF THIS GRANT ARE NOT VALID UNLESS
THEY BEAR THE IMPRESSED SEAL OF THE COURT

IN THE HIGH COURT OF JUSTICE
The District Probate Registry at Leeds

BE IT KNOWN that **ANDREW ROBERT McLEISH**

of **5 Hillfoot Court Baslow Road Totley Sheffield S17 4AZ**

died on the **26th** day of **December 2004**

domiciled in **England and Wales** **INTESTATE**

AND BE IT FURTHER KNOWN that Administration of all the estate which by law devolves to and vests in the personal representative of the said deceased was granted by the High Court of Justice on this date to

BARBARA JENMAN of **Manden Place 64 Mill Road Crowle North Lincolnshire DN17 4LN**

It is hereby certified that it appears from information supplied on the application for this grant that the gross value of the said estate in the United Kingdom amounts to £282,929 and the net value of such estate amounts to £201,085

DATED the **28th** day of **June 2006**

Sally Holding

DISTRICT REGISTRAR / PROBATE OFFICER

Extracted by MESSRS HEWITT & CO 41 Townhead Street Sheffield South Yorkshire S1 1EB

ADMINISTRATION

Attorney Docket No. 15261.0003USWO

MERCHANT & GOULD P.C.

United States Patent Application

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: DEVICE AND METHOD FOR REMOVING A COMPOSITION FROM THE SKIN

The specification of which

- a. ☐ is attached hereto
b. ☒ was filed on December 5, 2005 as (Attorney Docket No. 15261.0003USWO) and application serial no. 10/560191 and was amended on (if applicable) (in the case of a PCT-filed application) described and claimed in international no. PCT/GB2004/001683 filed 19 April 2004 and as amended on (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a. ☐ no such applications have been filed.
b. ☒ such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
Great Britain	0313032.5	06 June 2003	
Great Britain	0326651.7	15 November 2003	
ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)

I acknowledge the duty to disclose information that is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (reprinted below):

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;

or

- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

(e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby appoint the attorney(s) and/or patent agent(s) associated with the following customer number to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.




I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Merchant & Gould P.C. to the contrary.

I understand that the execution of this document, and the grant of a power of attorney, does not in itself establish an attorney-client relationship between the undersigned and the law firm Merchant & Gould P.C., or any of its attorneys.

Please direct all correspondence in this case to customer number 23552.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	Full Name Of Inventor	Family Name BOSSARD	First Given Name Isabelle	Second Given Name
0	Residence & Citizenship	City Hull	State or Foreign Country GREAT BRITAIN	Country of Citizenship FRANCE
1	Mailing Address	Address c/o Reckitt Benckiser (UK) Limited, Dansom Lane	City Hull	State & Zip Code/Country HU8 7DS / GREAT BRITAIN
Signature of Inventor 201:			Date:	
2	Full Name Of Inventor	Family Name DIBNAH	First Given Name Carl	Second Given Name
0	Residence & Citizenship	City Hull	State or Foreign Country GREAT BRITAIN	Country of Citizenship GREAT BRITAIN
2	Mailing Address	Address c/o Reckitt Benckiser (UK) Limited, Dansom Lane	City Hull	State & Zip Code/Country HU8 7DS / GREAT BRITAIN
Signature of Inventor 202:			Date:	
2	Full Name Of Inventor	Family Name MCLEISH (Deceased)	First Given Name Andrew	Second Given Name Robert
0	Residence & Citizenship	City Sheffield	State or Foreign Country GREAT BRITAIN	Country of Citizenship GREAT BRITAIN
3	Mailing Address	Address c/o Pure Realisation, 19 Kingfield Road	City Sheffield	State & Zip Code/Country S11 9AS / GREAT BRITAIN
Signature of Inventor 203:  Barbara JENMAN Legal Representative of Andrew Robert MCLEISH, deceased			Date: 21st FEBRUARY 2007	
2	Full Name Of Inventor	Family Name THOMPSON	First Given Name Tracey	Second Given Name
0	Residence & Citizenship	City Hull	State or Foreign Country GREAT BRITAIN	Country of Citizenship GREAT BRITAIN
4	Mailing Address	Address c/o Reckitt Benckiser (UK) Limited, Dansom Lane	City Hull	State & Zip Code/Country HU8 7DS / GREAT BRITAIN
Signature of Inventor 204:			Date:	



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

30 NOV 2006

Mark DiPietro
Merchant & Gould, P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

Reg. Reconsideration
Zmo Jan 30, 2007
Stat May 30, 2007

In re Application of
BOSSARD, et al.
Serial No.: 10/560,191
PCT No.: PCT/GB04/01683
Int. Filing Date: 19 April 2004
Priority Date: 06 June 2003
Atty Docket No.: 15261.0003USWO
For: DEVICE AND METHOD FOR REMOVING
A COMPOSITION FROM THE SKIN

cm

DECISION ON PETITION

UNDER 37 CFR 1.47(a)

This decision is in response to the applicant's petition under 37 C.F.R. § 1.47(a) filed 03 April 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 19 April 2004, applicant filed international application PCT/GB04/01683 which claimed priority to an earlier application filed 06 June 2003. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 16 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 December 2005.

On 05 December 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee and a First preliminary amendment.

On 08 March 2006, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response.

On 03 April 2006, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of joint inventor Andrew Robert McLeish. Applicant is advised that pursuant to 37 CFR 1.17(g), the petition fee is \$200.00. As authorized, the fee will be charged to deposit account 13-2725.

Application No.: 10/560,191

2

DISCUSSION

Applicant is advised that 37 CFR 1.47 applies only where a **known** legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. In such cases, the last known address of the legal representative must be given (see MPEP § 409.03(e)). In the present case, for the reasons detailed in the petition and supporting papers, applicant has not provided any information regarding the deceased inventor's legal representative. As such, the petition under 37 CFR 1.47 to accept the application without the legal representative is inappropriate pursuant to MPEP 409.03(c). Applicant's exhibit letter of 03 March 2005 from Mr. Paul M. Hewitt states that executors to the estate of the McLeishs should be entitled to obtain the grant in respect of the estate within "3 to 4 months." Therefore, it is reasonable to assume that the matter has been settled by now. In order to proceed under 35 U.S.C. 371, applicant must seek Mr. McLeish's current legal representative or heirs. Where there is no legal representative to the estate, any court of competent jurisdiction should appoint the legal representative for the sole purpose of prosecuting the application.

In a similar vein, the filed declaration does not comply with 37 CFR 1.497(a)-(b) in that no information has been provided on the declaration for the legal representative or heir(s). The filed declaration lists Mr. McLeish with his signature block left unsigned leaving the impression that he is refusing to execute the declaration rather than the fact that he is deceased.

37 CFR 1.42 When the Inventor is Dead, states, in part:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

In order to proceed under 37 CFR 1.47(a), applicant is required to identify the non-signing party, i.e. the legal representative as detailed above. 37 CFR 1.497(b) requires that the declaration identify and provide the citizenship for both the deceased inventor and the legal representative. Accordingly, the petition under 37 CFR 1.47(a) is dismissed.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED without prejudice.**

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

Application No.: 10/560,191

3

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459